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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/556,264	11/14/2005	Matthew Ledger	0501026-001	8969
29146	7590	10/23/2008	EXAMINER	
PATWRITE LLC 408 W. MAIN ST. MARSHALLTOWN, IA 50158-5759			QIN, JIANCHUN	
			ART UNIT	PAPER NUMBER
			2837	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/556,264

**Applicant(s)**

LEDGAR, MATTHEW

**Examiner**

JIANCHUN QIN

**Art Unit**

2837

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8, 11-13 and 17-20 is/are rejected.
- 7) ☒ Claim(s) 6, 9, 10 and 14-16 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The specification is objected to because of the following informalities:

In the specification, following the "TITLE OF THE INVENTION", please add a section "Cross Reference To Related Applications" to provide details about cross-references to other related patent applications, including the application number, date and relationship to the previous filing.

### ***Claim Objection***

2. Claim 4 is objected to because the amended language "a plurality of at least one a jingles, metal disks and bell" is indefinite and cannot be clearly understood by the Examiner. Therefore, it is examined based on the best interpretation by the Examiner.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 7, 8, 11-13 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cohen (U. S. Pat. No. 4127053) in view of Bartholomae (U.S. Pat. No. 0976718).

Regarding claim 1, Cohen discloses a compound percussion instrument (Abstract, Figs. 1 and 5) comprising: a first percussive instrument (Figs. 1 and 5, col. 3, lines 4-31 and 51-60); a second percussive instrument (Fig. 1; col. 3, lines 32-41) wherein the first percussive instrument is operable by a player using at least one hand (Figs. 1 and 5; user holds the instrument and waves or shakes his hand to make the jingles to strike the clip 44 or the nut 42) and wherein the second percussive instrument is simultaneously operable by a player using said at least one hand (Fig. 1; col. 3, lines 32-35) wherein said second percussive instrument comprises a hammer (30); an actuator (Fig. 1, the portion of 20 that connects 30 and 31) wherein the actuator is disposed on the first percussive instrument and operates the hammer and causes the hammer to strike an anvil (Fig. 1; col. 3, lines 32-41). Cohen further discloses: wherein the first percussive instrument is a tambourine including a rim (11) on which a plurality of jingles or metal disks are mounted (col. 3, lines 8-18 and 51-60).

Cohen does not mention expressly: said anvil is a part of second percussive instrument, and said actuator operates the hammer and causes the hammer to strike the anvil.

Bartholomae discloses a percussive instrument operable by a player using one hand (Figs. 1-4; page 1, lines 31-54); comprising: a hammer (j or j'); at least one anvil

(d); and actuator (Fig. 1, combination of f and g); wherein said actuator operates the hammer and causes the hammer to strike the anvil (page 1, lines 31-54).

In view of the teaching of Bartholomae, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Cohen to have the handle (20) made from resilient material such as a spring-metal band of Bartholomae such that it can be operated to cause the hammer to directly strike the rim (11), as an anvil, of the first percussive instrument of Cohen, in order to provide an improved musical instrument which is simple in construction, cost-effective, easy to use and which may be operated to give a composite of a plurality of tones and which provide substantial degree of entertainment (Cohen, Abstract; Bartholomae, col. 1, lines 4-14).

Regarding claim 2, Cohen discloses the instrument, wherein the first percussive instrument has a handle and the actuator is disposed on the handle of the first percussive instrument (Fig. 1).

Regarding claim 3, Cohen discloses the instrument, wherein the first percussive instrument comprises at least one of a tambourine, shaker, rattle, and bell (col. 3, lines 51-60).

Regarding claim 4, Cohen discloses the instrument, wherein the first percussive instrument is a tambourine including a rim (11) on which a plurality of jingles or metal disks are mounted (col. 3, lines 8-18 and 51-60).

Regarding claim 5, Cohen discloses the instrument, wherein the hammer (30) is pivotally (col. 3, lines 32-35) mounted on the compound percussion instrument such that

the hammer is pivotally mounted to strike the anvil (col. 3, lines 32-35, i.e., when 30 is struck against a flat surface, it vibrates around).

Regarding claim 7, Cohen discloses the instrument, wherein the hammer is biased to a primed condition (Fig. 1; col. 3, lines 15-41).

Regarding claim 8, Cohen discloses the instrument including the subject matter discussed above except: wherein the hammer is biased using a spring.

Bartholomae teaches a percussive instrument operable by a player using one hand (Figs. 1-4; page 1, lines 31-54), comprising a hammer (j); at least one anvil (d); wherein the hammer is biased using a spring (f).

In view of the teaching of Bartholomae, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Cohen to have the handle (20) made from resilient material such as a spring-metal band in order to maintain the hammer and the anvil in a biased condition thus facilitate the interaction between them (Cohen, Abstract; Bartholomae, col. 1, lines 4-14).

Regarding claim 11, Cohen discloses the instrument including the subject matter discussed above except: wherein the compound percussion instrument includes a single anvil and the hammer is biased to a primed position in which a striking surface of the hammer is spaced from the anvil.

Bartholomae teaches a percussive instrument operable by a player using one hand (Figs. 1-4), comprising: a hammer (j or j'); at least one anvil (d); wherein the hammer is biased to a primed position in which a striking surface of the hammer is spaced from the anvil (Fig. 1; page 1, lines 31-54).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Cohen as taught by Bartholomae in order to provide an improved musical instrument which is cost-effective, easy to use and which may be operated to give rich sounds for substantial degree of entertainment (Cohen, Abstract; Bartholomae, col. 1, lines 4-14).

Regarding claim 12, Cohen discloses the instrument, wherein the hammer is chosen to provide a desired acoustic response (col. 3, lines 45-46).

Regarding claim 13, Cohen does not mention expressly: wherein the hammer is in the form of a temple block comprising a hollow member having at least one opening.

Bartholomae teaches a percussive instrument operable by a player using one hand (Figs. 1-4), comprising: a hammer (j or j'); wherein the hammer is in the form of a temple block comprising a hollow member having at least one opening (Fig. 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Cohen as taught by Bartholomae in order to provide an improved musical instrument which is cost-effective, easy to use and which may be operated to give rich sounds for substantial degree of entertainment (Cohen, Abstract; Bartholomae, col. 1, lines 4-14).

Regarding claim 17, Cohen discloses the instrument, wherein an actuator (portion of 20 that connects 30 and 31) is directly connected to the hammer forms an extension therefrom (Fig. 1).

Regarding claim 18, Cohen discloses the instrument, wherein the actuator (Fig. 1, the portion of 20 grasped by the user with his forefinger, middle finger and ring finger)

is indirectly connected to the hammer via a linkage (Fig. 1, the portion of 20 between the hammer and the actuator).

Regarding claim 19, Cohen discloses the instrument, wherein the actuator is a trigger (col. 3, lines 37-41).

Regarding claim 20, Cohen does not mention expressly: wherein the percussion instrument includes a plurality of hammers actuated by the actuator.

Bartholomae discloses a percussion instrument (Fig. 1 and 2), comprising: a plurality of hammers (j, j'), where each said hammers is in the form of a temple block comprising a hollow member having at least one opening (Fig. 1); an actuator (f), wherein said a plurality of hammers are actuated by the actuator (page 1, lines 37-50).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the invention of Cohen as taught by Bartholomae in order to provide an improved musical instrument which is cost-effective, easy to use and which may be operated to give rich sounds for substantial degree of entertainment (Cohen, Abstract; Bartholomae, col. 1, lines 4-14).

***Allowable Subject Matter***

5. Claims 6, 9, 10 and 14-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.



***Reasons for Allowance***

6. The following is an examiner's statement of reasons for allowance:

The primary reason for the allowance of claim 6 is the inclusion of the limitation that the hammer is slidably mounted on the compound percussion instrument to permit the hammer to strike the anvil. It is this limitation found in the claim, as it is claimed in the combination that has not been found, taught or suggested by the prior art of record, which makes this claim allowable over the prior art.

The primary reason for the allowance of claims 9 and 10 is the inclusion of the limitation that the hammer is biased to a primed condition with an over centre pivotal mount having opposed anvils on either side of the pivot point. It is this limitation found in each of the claims, as it is claimed in the combination that has not been found, taught or suggested by the prior art of record, which makes these claims allowable over the prior art.

The primary reason for the allowance of claims 14-16 is the inclusion of the limitation that the hammer is in the form of a temple block that strikes opposed anvils on either side of a pivotal mount. It is this limitation found in each of the claims, as it is claimed in the combination that has not been found, taught or suggested by the prior art of record, which makes these claims allowable over the prior art.

***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jianchun Qin whose telephone number is (571) 272-

5981. The examiner can normally be reached on 8am - 5:30pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Walter Benson can be reached on (571) 272-2227.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. Q./  
Examiner, Art Unit 2837

/Walter Benson/  
Supervisory Patent Examiner, Art Unit 2837